STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS BELL TELEPHONE COMPANY D/B/A AT&T ILLINOIS D/B/A AT&T WHOLESALE and SPRINTCOM, INC. WIRELESSCO. L.P., NPCR, INC. D/B/A NEXTEL PARTNERS AND NEXTEL WEST CORP.	)	Docket No. 13-0443
Joint Petition Regarding Approval of Interconnection Agreement pursuant to 47 U.S.C. § 252	)	

LEVEL 3 COMMUNICATIONS, LLC, PEERLESS NETWORK OF ILLINOIS, LLC, AND TW TELECOM OF ILLINOIS LLC'S PETITION TO INTERVENE AND MOTION FOR LEAVE TO FILE COMMENTS *INSTANTER*

Level 3 Communications, LLC ("Level 3"), Peerless Network of Illinois, LLC ("Peerless") and tw telecom of illinois llc ("tw telecom") (collectively, "Intervenors"), by their attorney, hereby petition to intervene in the above captioned proceeding, pursuant to Part 762.210 of the Rules of Practice of the Illinois Commerce Commission ("Commission"), 83 Ill. Admin. Code Part 762.210. In addition, given the important nature of the Commission's evaluation of the question of whether Sprint should be permitted to request IP Interconnection, the Intervenors request that the Commission take into consideration the Comments filed contemporaneous with this Petition, and which are appended hereto as Attachment A. Intervenors state as follows in support of this Petition.

1. Level 3 is a limited liability company duly authorized to do business in the State of Illinois. Level 3 has its principal offices at 1025 Eldorado Boulevard, Broomfield, CO 80021.

2. Peerless is a limited liability company duly authorized to do business in the State of Illinois. Peerless has its principal offices at 225 S. Riverside Plaza, Suite 2730, Chicago, Illinois, 60606.

3. tw telecom is a limited liability company duly authorized to do business in the State of Illinois. tw telecom has its principal offices at 10475 Park Meadows Drive, Littleton, Colorado 80124.

4. Intervenors are telecommunications carriers authorized to provide competitive local exchange and interexchange telecommunications services within Illinois.

5. Part 762.210 of the Commission's Rules permits carriers to intervene in Section 252 arbitration proceedings. 83 Ill.Adm.Code Part 762.210. In the Commission's rulemaking proceeding adopting Part 761, the Commission made clear that, while third-party carriers could not participate during the arbitration phase of an arbitration proceeding under 47 U.S.C. § 252, "interested carriers have the opportunity to participate under proposed part 762 which allows intervention in the proceedings for approval of agreements adopted by arbitration" *See Adoption of 83 Ill. Adm. Code 761 to implement the arbitration provisions of Section 252 of the Telecommunications Act of 1996*, Dkt. No. 96-0297, 1996 WL 33660071 (I.C.C. Sept. 5, 1996)).

6. Part 762.210 provides that parties wishing to intervene must provide a plain and concise statement of the petitioners' interest in the proceedings, and that "[w]hile a petition for leave to intervene is pending, the Hearing Examiner, in his or her discretion, may permit the petitioner to participate in the proceeding." 83 Ill.Adm.Code § 762.210.

7. Each of the Intervenors have deployed Internet Protocol ("IP") technology throughout their network in Illinois, and use IP technology to provide services to Illinois customers. Through their IP networks, Intervenors exchange telecommunications calls with Illinois Bell, including local, long distance, directory assistance, operator services and enhanced 911 calls.

8. In the FCC's *Connect America Fund* proceeding ("CAF Order"), [1] the FCC held that it "expect[s] all carriers to negotiate in good faith in response to requests for IP-to-IP interconnection for the exchange of voice traffic," and that it "expect[s] such good faith negotiations to result in interconnection arrangements between IP networks for the purpose of exchanging voice traffic."

[1] *In the Matter of Connect America Fund*, 26 FCC Rcd. 17663, ¶ 1011, Report & Order & Further Notice of Proposed Rulemaking (2011).

9. This arbitration proceeding will address whether, and on what terms, Illinois Bell will be required to provide IP interconnection to Sprint, and thus will form the basis of Illinois Bell's negotiations with other carriers, including Intervenors.

10. The Intervenors further request that the Commission accept for filing the Comments in opposition to the proposed Interconnection Agreement submitted by Sprint and Illinois Bell for approval. As set forth in the Comments, the Interconnection Agreement does not provide for a method for IP Interconnection, and therefore violates Sections 47 U.S.C. § 251(c) and 252(e). The Comments are attached here to as Appendix A.

11. Should this petition be granted, Intervenors request that the Commission and all parties please include the following on the service list:

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For the foregoing reasons, Intervenors respectfully requests that this Commission grant this Petition to Intervene, and that each of the Intervenors be treated as a party to this proceeding.

Dated: July 22, 2013

Respectfully Submitted,

By: 

One of its attorneys

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Counsel for Level 3 Communications, LLC, Peerless Network of Illinois, LLC and tw telecom of illinois llc

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

STATE OF Indiana)
) **SS**
COUNTY OF Hamilton)

TW TELECOM OF ILLINOIS LLC
VERIFICATION

I, Pamela H. Hollick, Vice President of Regulatory, being first duly sworn, depose and state that I am an employee of **tw telecom inc.**, the parent company **of tw telecom of illinois llc**, that I have read the foregoing Petition to Intervene and know the contents thereof and that the statements therein contained are true, to the best of my knowledge information and belief.

Pamela H. Hollick
Vice President of Regulatory
tw telecom inc.

Subscribed and Sworn to before me
This 17th day of July 2013

Notary Public

SEAN HOLLICK
Notary Public, State of Indiana
Hamilton County
My Commission Expires
June 04, 2020

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

STATE OF COLORADO	)	
	)	**SS**
COUNTY OF BROOMFIELD	)	

LEVEL 3 COMMUNICATIONS, LLC
VERIFICATION

I, **Scott Seab**, being first duly sworn, depose and state that I am Corporate Counsel with Level 3 Communications, LLC, that I have read the foregoing Petition to Intervene and know the contents thereof and that the statements therein contained are true, to the best of my knowledge information and belief.

Subscribed and Sworn to before me
this 22nd day of July, 2013:

HEATHER DIANE KAVANAUGH
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20124071845
MY COMMISSION EXPIRES 11/07/2016

Notary Public

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS)
) **SS**
COUNTY OF COOK)

PEERLESS NETWORK OF ILLINOIS, LLC
VERIFICATION

I, JOHN BARNICLE, being first duly sworn, depose and state that I am an employee of Peerless Network of Illinois, LLC, that I have read the foregoing Petition to Intervene and know the contents thereof and that the statements therein contained are true, to the best of my knowledge information and belief.

John Barnicle

Subscribed and Sworn to before me
This 19 day of July 2013

Notary Public

RICHARD A. YEE
OFFICIAL SEAL
Notary Public - State of Illinois
My Commission Expires
September 30, 2016

ATTACHMENT
A

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS BELL TELEPHONE COMPANY D/B/A AT&T ILLINOIS D/B/A AT&T WHOLESALE and SPRINTCOM, INC. WIRELESSCO. L.P., NPCR, INC. D/B/A NEXTEL PARTNERS AND NEXTEL WEST CORP.	)	
Joint Petition Regarding Approval of Interconnection Agreement pursuant to 47 U.S.C. § 252	)	Docket No. 13-0443

LEVEL 3 COMMUNICATIONS, LLC, PEERLESS NETWORK OF ILLINOIS, LLC, AND TW TELECOM OF ILLINOIS LLC'S COMMENTS ON THE PROPOSED ARBITRATED AGREEMENT

Submitted: July 22, 2013

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LEVEL 3 COMMUNICATIONS, LLC, PEERLESS NETWORK OF ILLINOIS, LLC, AND TW TELECOM OF ILLINOIS LLC'S COMMENTS ON THE PROPOSED ARBITRATED AGREEMENT

Level 3 Communications, LLC ("Level 3"), Peerless Network of Illinois, LLC ("Peerless") and tw telecom of illinois llc ("tw telecom") (collectively, "Intervenors"), pursuant to Ill. Adm. Code § 762.120, respectfully submit these Comments on the Proposed Arbitrated Agreement submitted in the above-referenced docket between Sprintcom, Inc., Wirelessco, L.P., NPCR, Inc. d/b/a Nextel Partners, and Nextel West Corp. (collectively, "Sprint") and Illinois Bell Telephone Company d/b/a AT&T Illinois ("Illinois Bell").

INTERVENORS' STATEMENT OF THE CASE AND SUMMARY POSITION

Intervenors are Illinois carriers who currently operate complete or partial internet protocol ("IP") networks in the state of Illinois, and interconnect with Illinois Bell and other incumbent local exchange carriers ("LECs") in Illinois. Intervenors, and other competitive LECs in Illinois, are increasingly using IP as a core technology to transport voice traffic services to maximize network efficiencies and to reduce the cost of providing voice services. This reduction in cost of voice services is, in turn, passed on to Illinois consumers. Unfortunately, many competitive LECs have had difficulty interconnecting in IP format into the AT&T / Illinois Bell IP network and other major networks affiliated with incumbent LECs.

Intervenors file these Comments to encourage the Commission to provide Illinois LECs with clear guidance on the applicability of Section 251 to IP interconnections,[1] and urge the Commission to reject that portion of the Proposed Arbitrated Agreement that requires traffic be exchanged in Time Multiplex Division ("TDM") format.[2] The arbitration record demonstrates that Illinois Bell owns much of the equipment and transport used by Illinois Bell as its IP network, and further demonstrates that Illinois Bell makes an IP network available to its customers to receive IP voice services, even though AT&T has operationally decided to allow Illinois Bell's IP network to be operated by an unregulated affiliate, AT&T Corp.[3] Unfortunately, the Arbitration Decision eschews analysis of controlling federal authority and effectively rejects the applicability of Section 251 and 252 to IP interconnection.

The Arbitration Decision and the Proposed Arbitration Agreement that results from the Arbitration Decision is contrary to Section 251(c) of the Act on the issue of the IP-to-IP Interconnection. Pursuant to Section 251(c), Sprint and competitive LECs have the right to demand an IP-to-IP interconnection with the IP network Illinois Bell uses, and present Illinois Bell with a formal IP interconnection plan. And, if Sprint and Illinois Bell are unable to agree on the specific terms of an IP-interconnection plan with Illinois Bell, Sprint and competitive LECs may appeal to Commission arbitration pursuant to Section 252 of the Act. Sprint's proposed language for this issue (Issue No. 1) sought nothing more than the recognition of this right. Conversely, Illinois Bell's proposed language for IP-to-IP interconnection (and the arbitrated language in the Proposed Arbitration Agreement) allows Illinois Bell to specifically question the applicability of Section 251 and 252 to IP interconnection in the General Terms and Conditions, §§ 3.11.2.2, 3.11.2.2.1, 3.11.2.2.2, and forces Sprint and competitive

[1] 47 U.S.C. §251 of the Telecommunications Act of 1996 (the "Act").

[2] "IP-to-IP Interconnection" was identified and arbitrated by the Commission as Issues No. 1, 11, and 18. Intervenors' Comments solely address Issue No. 1. *In Re SprintCom, Inc., Wireless Co., L.P., NPCR, Inc. d/b/a Nextel Partners and Nextel West Corp. Petition For Arbitration pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Illinois Bell Telephone Company*, Arbitration Decision, Illinois Commerce Commission Docket No. 12-0550 (Jun. 26, 2013) (the "Arbitration Decision"), pgs. 31-33. References in these comments to Sprint, Staff and Illinois Bell's positions relate to the testimony and comments filed by these parties in Docket No. 12-0550.

[3] Direct Testimony of Carl C. Albright, Jr., Illinois Bell Exh. 2.0 (filed Dec. 5, 2012) ("Albright Direct Testimony"), 8:205-9:218.

LECs to re-litigate IP interconnections before the Commission in future proceedings and incur the cost and time to re-litigate this issue, despite the extensive briefing on the topic in the arbitration.[4] This language is contrary to Section 251(c) and the FCC's regulations, and the Commission must reject the Proposed Arbitrated Agreement language that does not permit IP-to-IP interconnection. In the alternative, the Commission should adopt Sprint's proposed language.

ARGUMENT

I. THE COMMISSION HAS AUTHORITY TO REJECT THE PROPOSED ARBITRATED AGREEMENT TO THE EXTENT IT DOES NOT COMPLY WITH SECTION 251 AND/OR SECTION 252(D)

Pursuant to Section 252(e), the Commission has authority to reject the Proposed Arbitrated Agreement's language despite the findings in the Arbitration Decision. The issues raised by Intervenors are arbitrated issues, and are subject to Commission approval pursuant to Section 252(e)(2)(B) of the Act.[5] Section 252(e)(2)(B) states that the Commission may reject portions of a proposed agreement if (1) the proposed language does not meet the requirements of Section 251 of the Act or regulations promulgated pursuant to Section 251, or (2) the proposed language does not meet the pricing standards of Section 252(d). Because the Arbitration Decision and the Proposed Arbitrated Agreement do not comply with these federal requirements by permitting Sprint to interconnect in IP format, the Commission must reject that portion of the Proposed Arbitrated Agreement.

The Commission should not rely solely on the findings in the Arbitration Decision, but must examine the Proposed Arbitrated Agreement in the context of comments submitted in this proceeding, including these comments. Relying solely on findings in the Arbitration Decision would render meaningless the Commission's long-standing determination that, while third-party carriers cannot

[4] Illinois Bell's Initial Post-Hearing Brief (filed Mar. 22, 2013) ("Illinois Bell Opening Brief"), pg. 86.

[5] The non-arbitrated portion of the Proposed Arbitrated Agreement is considered a "negotiated agreement" because those provisions were never subject to arbitration. The non-arbitrated terms of the agreement are subject to the Commission's approval pursuant to the standards detailed in Section 252(e)(2)(A) of the Act. *See, e.g., Grafton Telephone Co. and United States Cellular Operating Company of Chicago, LLC, et al.*, Order, Illinois Commerce Commission Docket No. 13-0251, 2013 WL 3366210 (Jun. 26, 2013).

participate during the arbitration phase of an arbitration proceeding under 47 U.S.C. § 252, "interested carriers have the opportunity to participate under proposed part 762 which allows intervention in the proceedings for approval of agreements adopted by arbitration" *See Adoption of 83 Ill. Adm. Code 761 to implement the arbitration provisions of Section 252 of the Telecommunications Act of 1996*, Dkt. No. 96-0297, 1996 WL 33660071 (I.C.C. Sept. 5, 1996)). Further, such Commission deference to the Arbitration Decision would effectively exclude Intervenors and all interested parties' participation, even though the Commission's decision will establish a precedent on the issue of IP-to-IP interconnection.

II. THE COMMISSION MUST PROVIDE CARRIERS AN OPPORTUNITY TO INTERCONNECT IN IP FORMAT WITH ILLINOIS BELL'S IP NETWORK

In Arbitration Issue No. 1, Sprint requested (as a compromise to more affirmative language) that its Proposed Arbitrated Agreement include language allowing Sprint to make a formal demand for IP interconnection sometime during the term of the Agreement. The Commission should adopt Sprint's proposed language for this issue.

Sprint's Proposed Language

General Terms and Conditions
Sec. 3.11.2.2 Notwithstanding the foregoing, when the Parties utilize IP Interconnection, this Agreement may be used to exchange traffic in IP format.

As explained below, this language fully complies with Illinois Bell's obligations under 47 U.S.C. § 252(c), and must be adopted by the Commission.

A. The Commission Should Adopt Sprint's Proposed Language For IP Interconnection And Declare That The Commission Has Authority To Arbitrate IP-To-IP Interconnection Disputes.

Section 252 of the Act grants the Commission authority and jurisdiction to arbitrate IP-to-IP interconnection. Instead of directly addressing the Commission's authority or its own duties to provide IP-to-IP interconnections, the Proposed Arbitration Agreement prohibits Sprint from requesting IP to IP interconnection with Illinois Bell, In the arbitration proceeding, Illinois Bell argued that there is no technically feasible point to establish an IP-to-IP interconnection on Illinois Bell's current network.[6] Not

[6] Illinois Bell's Initial Post-Hearing Brief (filed Mar. 22, 2013) ("Illinois Bell Opening Brief"), pg. 78-79.

only is this factually incorrect, but it is ultimately irrelevant to Sprint's right to demand IP interconnection with Illinois Bell when Illinois Bell does have that capability (which is currently does have.).

Illinois Bell's argument in Docket No. 12-0550 to deny IP to IP Interconnection is that the exchange of voice IP traffic is an "information service" not subject to Section 251, and that an IP-to-IP interconnection would render Illinois Bell a "broadband information services provider" and not an incumbent LEC subject to Section 251.[7, 8] Illinois Bell's arguments are erroneous and contrary to findings made by the FCC. The Commission should modify the Agreement to affirm that IP-to-IP interconnection is subject to Section 251 of the Act, and adopt Sprint's language recognizing the Commission's jurisdiction and authority to arbitrate IP-to-IP interconnection agreements.

1. Adoption Of Sprint's Proposed Language For Issue No. 1 Merely Reserves Its Right To Request IP-to-IP Interconnection Sometime During The Term Of The Agreement.

The Commission is not required (and should not) make adoption of proposed interconnection agreement language contingent on an analysis of "technical feasibility" or where the requesting carrier IP-to-IP interconnection would occur. Sprint's request for IP-to-IP interconnection and proposed language does not seek an immediate establishment of IP-to-IP interconnection on the effective date of the Proposed Arbitrated Agreement. No "technical feasibility" analysis is therefore required. Instead, Sprint's proposed language states the Agreement "may be used to exchange traffic in IP format." Sprint's proposed language recognizes the applicability of Section 251 to IP-to-IP interconnections, the Commission's authority to arbitrate IP-to-IP interconnection disputes concerning IP-to-IP interconnection, and Sprint's right to request IP interconnection with Illinois Bell at some time during the term of the Proposed Arbitrated Agreement. Sprint's proposed language is no different from other arbitrated agreements where Illinois Bell agrees to provide a carrier with facilities (such as a DS3)

[7] *Id*. at pg. 89-90, 91.

[8] In its Reply, Illinois Bell belatedly argues that the Commission's jurisdiction over IP-to-IP interconnection pursuant to Section 251 is not at issue in this arbitration. (*See* Illinois Bell's Post-Hearing Reply Brief (filed Apr. 2, 2013) ("Illinois Bell Reply Brief"), at pgs. 45-46). Illinois Bell's attempt to limit the Commission's decision on this matter is contrary to its arguments that Section 251 does not apply to IP-to-IP interconnection. (*See* Illinois Bell Opening Brief, pgs. 89-92).

without identifying the end points of the facilities, or interconnection without specifying the location or facilities used for interconnection.

Even if the Commission were to look at the technical feasibility of Sprint interconnecting to Illinois Bell's current infrastructure, Illinois Bell failed to carry its burden of demonstrating that any proposed potential Sprint's IP Interconnection would be technically infeasible at any time during the term of the Agreement. *Talk America, Inc. v. Michigan Bell Telephone Co.*, - - U.S. - -, 131 S.Ct. 2254, 2262 (2011); *see also* 47 C.F.R. §§ 51.305, 51.321(d).[9] Illinois Bell relies primarily on the testimony of Carl Albright to attempt to demonstrate technical infeasibility.[10] Mr. Albright testifies that Sprint should not be permitted to include IP-to-IP interconnection in the Agreement because (1) "section 251(c)(2) of the Telecommunications Act of 1996 ('1996 Act') . . . does not encompass or require IP-to-IP interconnection" and (2) Illinois Bell "does not have an IP network, *i.e.*, does not have IP-capable equipment with which Sprint could interconnect".[11]

As to Mr. Albright's first issue with IP-to-IP interconnection, Mr. Albright – a non-lawyer – is simply wrong. As demonstrated below, Section 251(c)(2) does encompass IP-to-IP interconnection. The Commission should disregard Mr. Albright's legal conclusions to the contrary. Further, Mr. Albright's testimony that "this Commission should not get out ahead of the FCC" on this issue is speculative at best, as Intervenors also demonstrate below.[12]

As to Mr. Albright's second issue with IP-to-IP interconnection, Mr. Albright fails to establish that Illinois Bell will not have an IP-capable network at any time during the term of the proposed Agreement. Mr. Albright testifies that "[t]here is not much to explain [on this issue]. AT&T Illinois' network is a TDM network. AT&T Illinois' network simply does not include IP-capable equipment with

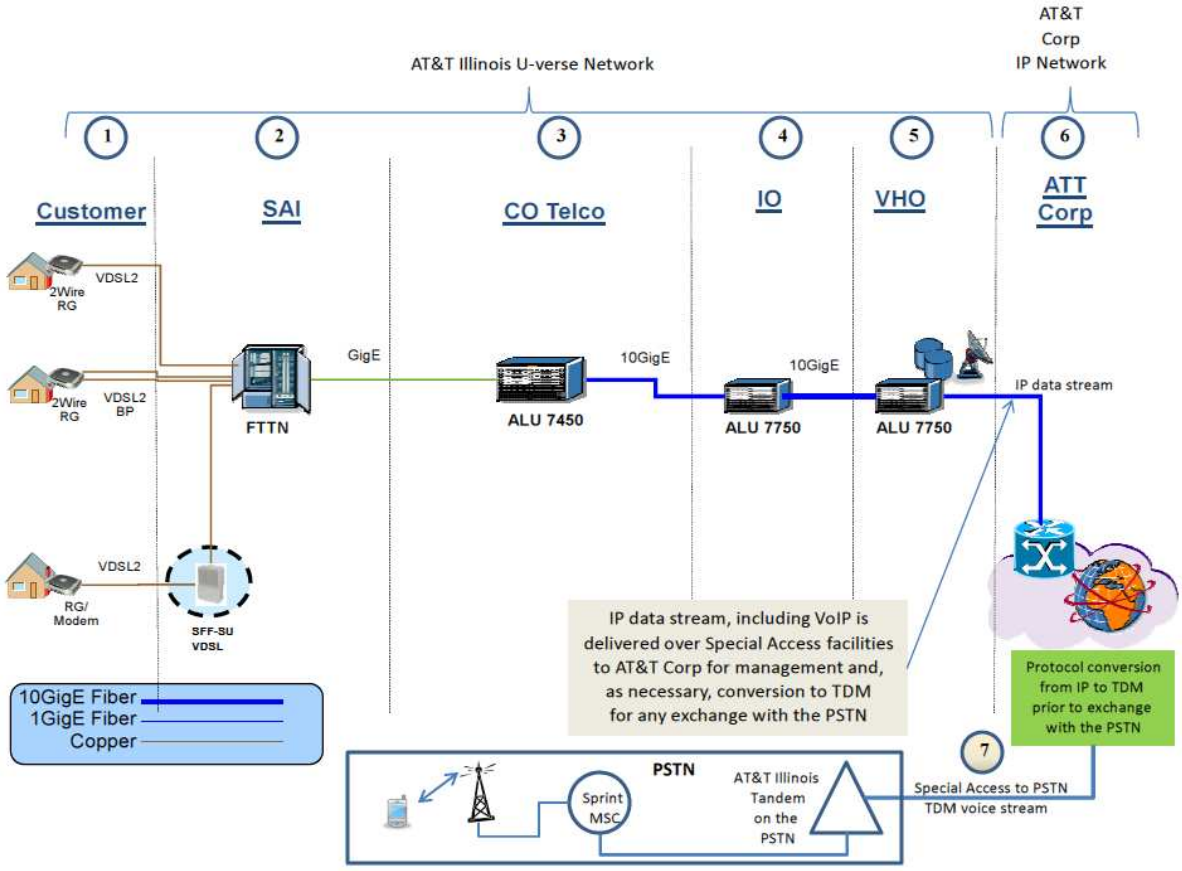
[9] Staff agrees that Illinois Bell has failed to carry its burden on this point. *See* Direct Testimony of Dr. James Zolnierek, Staff of the ICC Exhibit 1.0 (filed Jan. 15, 2013) ("Zolneirek Direct Testimony"), 20:403-21:432.

[10] Albright Direct Testimony, 1:6-8.

[11] Albright Direct Testimony, 4:97-100, 5:104-106.

[12] *Id*. at 5:113-116, 14:355-363.

which Sprint could interconnect any IP-capable equipment. . ."[13] Mr. Albright's explanation of Illinois Bell's U-verse IP service network demonstrates that Illinois Bell "owns" most of an IP infrastructure that AT&T Corp. "operates." Mr. Albright's diagram at CCA-1 and CCA-9 is Illinois Bell's representation of how its U-verse IP product is routed from an Illinois Bell consumer's home to AT&T Corp. for processing; but the Illinois Bell U-verse traffic is routed through the Illinois Bell-owned IP network. [14]



Mr. Albright states that the first node in the chain between an Illinois Bell consumer's home is a piece of equipment labeled "FTTN", which is an IP Digital Subscriber Line Access Multiplexer ("IP DSLAM") owned by AT&T Corp. but which is "part of [Illinois Bell's] outside plant 'local loop'

[13] *Id*. at 7:177-179.

[14] Illinois Bell Exh. 2.0, Schedule CCA-1 and Illinois Bell Exh. 2.1, Schedule CCA-9. Schedule CCA-9 is attached hereto as Exhibit 1.

network."[15] Mr. Albright goes on to state that, after the IP call is multiplexed at the IP DSLAM (which owned by AT&T Corp.), the Illinois Bell's U-verse consumer voice IP call is routed through "Central Offices, Intermediate Offices and the Video Hub Office ("VHO") used to aggregate the IP data stream. . ."[16] Mr. Albright then states that "AT&T Illinois [*i.e.,* Illinois Bell] provides the transport and aggregation for the IP data stream" that is routed to AT&T Corp.[17] Illinois Bell admits that the equipment at the Central Office (labeled ALU 7450 on Diagram CCA-1) and at the intermediate office (labeled ALU 7770 on Diagram CCA-1) and at the VHO (labeled ALU 7450 on Diagram CCA-1), and the copper and fiber connections between them, are owned by Illinois Bell. AT&T Corp. only operates the IP data stream over this equipment and fiber transport: "AT&T Corp. provides the necessary conversion and management of the data within the IP data stream. . ."[18]

Mr. Albright's testimony is fatal to Illinois Bell's hopes for demonstrating that IP-to-IP interconnection is technically infeasible during the term of the proposed Agreement. If the intermediate equipment used in the IP data stream is owned by Illinois Bell (even if it is operated by AT&T Corp.), Illinois Bell must demonstrate why Sprint cannot interconnect with the IP network that Illinois Bell is using.

Illinois Bell does not explain why, with proper aggregation and routing protocols, Illinois Bell could not receive Sprint IP traffic at Illinois Bell's network and be processed in the same manner as all other Illinois Bell IP traffic (*i.e.*, over Illinois Bell equipment and processed at AT&T Corp. soft switches)[19] or at any soft switch or other IP-capable switch which Illinois Bell owns, operates or acquires during the term of the Agreement.

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[15] Albright Direct Testimony, 8:206-209.

[16] *Id*. at 7:209-8:211.

[17] *Id*. at 8:215.

[18] *Id*. at 8:215-218.

[19] Sprint would only need to connect to the IP network edge, not to a soft switch as AT&T posits. Since Illinois Bell owns the equipment and transport used in the IP network, the network edge in this case would be the equipment owned by Illinois Bell.

Further, Illinois Bell fails to explain why it is not discriminatory for Illinois Bell to allow AT&T Corp. to place equipment in the IP network that Illinois uses, provides as a service to its customers (and for the most part owns), while excluding competing carriers from inserting their own equipment in the IP network described on Schedule CCA-9. For example, in another context, the FCC has required Illinois Bell to allow competing LECs to interconnect their own DLSAMs with Illinois Bell's network to allow the competing LECs to interconnect with Illinois Bell's IP end users.[20] Illinois Bell does not explain why a competing LEC could not place its own equipment (such as a soft switch next to the VHO it owns) – especially since Illinois Bell allows AT&T Corp. to place and operate its equipment (the IP DSLAM) on the Illinois Bell IP network.

Instead of addressing these issues, Illinois Bell's Opening Brief in docket 12-0550 argues that "Mr. Albright . . . explained why it would not be possible for Sprint to establish IP-to-IP interconnection at any of those pieces or equipment or facilities that are on AT&T Illinois' network."[21] The testimony cited by Illinois Bell fails to support this conclusion.[22] At most, Illinois Bell's arguments consist of conclusory statements that all IP transmissions "must be processed in the AT&T" softs switch and that calls "would not work" if sent to any of the Illinois Bell equipment.[23] It is unclear why these conclusions must be the case over the course of the entire term of the Proposed Arbitrated Agreement, in light of Illinois Bell's admission that Illinois Bell owns and operates an IP-capable soft switch (which is currently simply not provisioned to receive IP traffic).[24] Tellingly, Illinois Bell cannot inform the Commission that

[20] *In re SBC Communications, Inc., et al for authorization to provide in-region interLATA services in Illinois, Indiana, Michigan, Ohio and Wisconsin*, FCC 03-243, ¶150, 18 FCC Rcd. 21543 (rel. October 15, 2003).

[21] Illinois Bell Opening Brief, pg. 80, *citing* Albright Direct Testimony, pgs. 8-10.

[22] The citation Illinois Bell relies on to Mr. Albright's testimony does not explain why Sprint cannot route interconnected voice IP traffic to the IP network infrastructure that Illinois Bell owns (but lets AT&T operate) at the Central Office (labeled ALU 7450 on Diagram CCA-1) and at the intermediate office (labeled ALU 7770 on Diagram CCA-1) and at the VHO (labeled ALU 7450 on Diagram CCA-1). Later, Mr. Albright's testimony describes the function of this equipment in the IP network but does not describe why Sprint would not be able to route its IP traffic to the equipment. Albright Rebuttal Testimony, gps. 10-12.

[23] *See* Illinois Bell's response to Staff's Data Request JZ 2.02, submitted as Illinois Bell Illinois Exh. 2.1, Schedule CCA-8.

[24] Tr. 556:7-21.

receipt of IP voice traffic from Sprint *will never* be able to be processed at any time during the term of the Proposed Arbitrated Agreement on an IP network owned by Illinois Bell.

Consistently through the proceedings, Illinois Bell carefully stated that "Illinois Bell has no IP network."[25] Viewed in light of Mr. Albright's testimony, what Illinois Bell means to say is that, while Illinois Bell owns much of the equipment and fiber transport that is used for an IP network, AT&T has decided that AT&T Corp. – not Illinois Bell – will operate the IP network that Illinois Bell owns and uses, on the equipment and transport that IP network Illinois Bell owns and uses, to provide IP services to Illinois Bell's U-verse IP customers.[26]

Illinois Bell failed to carry its burden to show why Sprint cannot technically establish an interconnection with the IP infrastructure that Illinois Bells owns at any time during the term of this proposed Agreement. The Commission should therefore preserve Sprint's ability to request IP interconnection with Illinois Bell during the term of the Proposed Arbitrated Agreement under Section 251 of the Act.

2. Sprint's Proposed Language Is Consistent With Illinois Bell's Requirement To Provide IP-to-IP Interconnection Pursuant To Section 251.

Illinois Bell's interpretation of its interconnection obligations under Section 251 is predicated on its delegation of its IP network infrastructure operations to AT&T Corp. As a result of this arrangement, Illinois Bell seeks to delay or completely escape all regulatory burdens imposed on it as an incumbent LEC merely because of its voluntary decision to allow AT&T Corp. to operate its IP infrastructure. As demonstrated below, none of AT&T's arguments concerning its Section 251 obligations are sufficient to demonstrate that the Commission should delay or ignore Illinois Bell's regulatory burden to interconnect with Sprint in IP format. The Commission therefore should adopt Sprint's proposed language with respect to IP interconnection, and affirm its jurisdiction to arbitrate IP-to-IP interconnection agreements.

[25] *Id*. at pg. 12

[26] Staff has similarly found Illinois Bell's description of what constitutes its "network" misleading. *See* Zolneirek Direct Testimony, 20:396-397 ("While I do not strictly know what Mr. Albright means by a 'TDM network,' I find the statement, as a generalization, to be misleading.").

a. Section 251 Is Not Limited To TDM Traffic

Section 251 is not limited to TDM traffic, as Illinois Bell argues.[27,28] The FCC has provided a clear position on the applicability of Section 251 to IP-to-IP interconnection. In the *Connect America Fund* docket, the FCC plainly stated that "we observe that section 251 of the Act is one of the key provisions specifying interconnection requirements, and that its interconnection requirements are technology neutral– they do not vary based on whether one or both of the interconnection providers is using TDM, IP, or another technology in their underlying networks."[29] And, even while the FCC is examining comments on voice IP-to-IP interconnection, it stated that "we expect all carriers to negotiate in good faith in response to requests for IP-to-IP interconnection for the exchange of voice traffic. The duty to negotiate in good faith has been a longstanding element of interconnection requirements under the Communications Act and does not depend upon the network technology underlying the interconnection, whether TDM, IP, or otherwise."[30]

Sprint's proposed language relating to IP interconnection is plainly consistent with the FCC's pronouncement on IP-to-IP interconnection in the *USF/ICC Transformation Order*. Sprint's proposed Sec. 3.11.2.2 merely states the Agreement "may be used to exchange traffic in IP format" pursuant to Section 251 of the Act. Illinois Bell points to no FCC determination calling into doubt whether IP-to-IP interconnections are subject to Section 251.

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[27] Albright Direct Testimony, 4:97-100.

[28] Staff agrees that the proposed Agreement should not be limited to the exchange of TDM format traffic. *See* Zolneirek Direct Testimony, 9:150-152 ("In my opinion it would not be good policy for the Commission to require the parties to exchange all traffic pursuant to the proposed Interconnection Agreement in TDM format. . . it would not be good policy to prohibit Sprint, in all cases, from interconnecting to AT&T Illinois in IP format.").

[29] *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, ¶1342 (2011) ("*USF/ICC Transformation* Order" and/or " *Connect America FNPRM*"), *pets. for review pending sub nom. In re:* FCC 11-161, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

[30] *USF/ICC Transformation Order*, ¶1011.

Illinois Bell further cites to tw telecom's petition to the FCC seeking a declaration that Section 251(c) applies to IP-to-IP interconnections as proof of uncertainty in this area.[31] Closer examination of the petition reveals why the petition was filed: "incumbent LECs such as AT&T and Verizon have seized upon the industry's transition to IP technology as a pretext for denying competitive carriers the right to IP-to-IP interconnection under Section 251(c)(2) for exchanging facilities-based VoIP traffic.[32] tw telecom argued that incumbent LEC's position hindered development of the deployment of IP and harmed consumer welfare by imposing inefficiencies and due costs on their competitor's networks, despite the FCC and Court's rulings on this issue.[33] Illinois Bell's approach to this arbitration is a continuation of these arguments. Moreover, this petition was filed nearly two years ago and the FCC has not rendered a ruling. The Commission should therefore not delay providing clarification to Illinois LECs in anticipation of an FCC ruling.

Illinois Bell's refusal to accept the Commission's jurisdiction to arbitrate IP-to-IP interconnection agreement also belies the clear language of Section 251. Section 251(a) and 251(c)(2) are technologically agnostic, and apply regardless of the technology used to exchange the voice traffic.[34] Section 251(c)(2) requires incumbent LECs like Illinois Bell to provide interconnection "at any technically feasible point" to "any requesting telecommunications carriers . . . for the transmission and routing of telephone

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[31] Albright Direct Testimony, 14:339-353, *citing* Petition for Declaratory Ruling of tw telecom inc., WC Dkt. No. 11-119 (filed Jun. 30, 2011) ("tw telecom Petition").

[32] tw Petition, pg. 5.

[33] *Id*. at pg. 2, *citing Talk America, Inc. v. Michigan Bell Telephone Co.*, - - U.S. - -, 131 S.Ct. 2254, 2262 (2011) and *In re Petition for Declaratory Ruling That AT&T's Phone-to-Phone IP Telephony Servs. Are Exempt from Access Charges*, 19 FCC Rcd. 7457, 7459 (Apr. 21, 2004) ("*AT&T IP Telephony Order*").

[34] Section 251(a) states that "[e]ach telecommunications carrier has the duty – (1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers; and (2) not to install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to section 255 or 256. . . " Section 251(c)(2) imposes the following additional duties specifically on incumbent local exchange carriers: [t]he duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network – (A) for the transmission and routing of telephone exchange service and exchange access; (B) at any technically feasible point within the carrier's network; (C) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and (D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252 of this title.

exchange service or exchange access." Section 251(c)(2) therefore permits Sprint to demand interconnection "at any technically feasible point" on Illinois Bell's network, including at just a single point of interconnection per local access area.[35] There is nothing in the statute that excludes the exchange of IP voice traffic, and FCC rules plainly suggest an expansive interpretation of the statute.[36] Section 251(a) further requires all telecommunications to "interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers." Section 251(a) is similarly devoid of language limiting this duty to the technology type used to exchange voice traffic.

AT&T's argument that Section 251(c)(2) only applies where traffic is exchanged in TDM format also ignores the structure and purpose of these sections. The Court in *Ohio Bell Telephone Co. d/b/a AT&T Ohio v. The Public Utilities Commission of Ohio, et al.*, 711 F.3d 637, 643 (6th Cir. 2013) held that the Ohio Utilities Commission could order AT&T to interconnect to a competitive carrier to complete E-911 calls under Section 251(a).

In *AT&T Ohio*, the Court rejected AT&T's argument that "Section 251(a) simply does not apply" to incumbent LECs subject to Section 251(c).[37] The *AT&T Ohio* Court determined that AT&T's reliance on a quote from the *FCC's In re Implementation of the Local Competition Provisions in the Telecommunications Act*, 11 F.C.C. R. 15499, 15991 (Rel. Aug. 1, 1996) ("*Local Competition Order"*) (which stated that "Section 251 is clear in imposing different obligations on carriers") is inapposite to its argument that Section 251(a) does not apply to incumbent ILECs because the FCC clearly also stated in the Order that Section 251 imposes greater interconnection burdens on incumbent LECs.[38] The Court

[35] 47 U.S.C. §251(c)(B); *See Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications act of 1996 to Provide In-Region, InterLATA Services in Texas*, Memorandum Opinion and Order, 15 FCC Rcd. 18354, ¶78 (2000) ("Section 251, and our implementing rules, require an incumbent LEC to allow a competitive LEC to interconnect at any technically feasible point. This means that a competitive LEC has the option to interconnect at only one technically feasible point in each LATA.")

[36] *See* 47 C.F.R. §51.305 (where the FCC uses expansive "at a minimum" language to provide examples of "technically feasible" points of interconnection).

[37] *AT&T Ohio*, 711 F.3d at 642.

[38] *Id*. at 642-43.

explained that Congress enacted the Act to "minimize the barriers to market entry erected during the period in which the incumbent provider functioned as a monopoly."[39] "Congress passed the Act 'in order to end local telecommunications monopolies and engender competition in local telecommunications markets'."[40] Therefore, the Court concluded that Section 251 imposes a three-tiered structure where Section 251(a), (b) and (c) each apply to incumbent LECs, with an increasing burden in each section:

> In order to accomplish [Congress'] goal, Sections 251(a) through (c) create a three-tiered hierarchy of escalating obligations based on the type of carrier involved. First, Section 251(a) imposes relatively limited duties on all telecommunications carriers. Second, Section 251(b) imposes more extensive duties on carriers that qualify as "local exchange carriers." Third and finally, Section 251(c) imposes the most extensive duties on local exchange carriers that are also incumbents, such as AT&T. The Supreme Court has explained that, in the "host of duties" imposed on incumbent carriers by Section 251, "[f]oremost among these duties is the [incumbent carrier's] obligation under 47 U.S.C. § 251(c) to share its network with competitors."[41]

Section 251(a) and (c) are technologically agnostic and impose an obligation on Illinois Bell to interconnect with competing carriers to exchange voice traffic regardless the technology used. Section 251 is not limited to TDM traffic and encompasses IP-to-IP interconnection. The Commission should adopt Sprint's proposed language for IP interconnection, and affirm its jurisdiction to arbitrate IP-to-IP interconnection agreements.

b. Illinois Bell's "Within The Illinois Bell Network" Argument Is A Red-Herring.

Illinois Bell incorrectly argues that the Commission's analysis is limited to the feasibility of interconnections within Illinois Bell's current network.[42] To support its arguments, Illinois Bell states that a Section 251(c) interconnection must occur only on Illinois Bell's network for three reasons: (1) based on the "within the carrier's network" language of Section 251(c)(2)(B); (2) based on the language of 47 C.F.R. § 51.305(a)(2) which also uses the "within the carrier's network"; and (3) based on an FCC

[39] *Id*. at 642, *quoting MCI Telecomm. Corp. v. Ohio Bell Tel. Co.*, 376 F.3d 539, 542 (6th Cir. 2004).

[40] *Id*., *quoting Verizon N., Inc. v. Strand*, 309 F.3d 935, 939 (6th Cir. 2002).

[41] *Id*., *quoting AT&T Corp. v. Iowa Util. Bd.*, 525 U.S. 366, 371, 119 S.Ct. 721 (1999) (internal and additional citations omitted) (emphasis added).

[42] Illinois Bell Opening Brief, pg. 79.

quote using "on that network" language when discussing Section 251(c) interconnection.[43, 44] Each of these arguments are predicated on the Illinois Bell supposition that, because AT&T Corp. operates the Illinois Bell IP infrastructure, the only IP in existence is on AT&T Corp.'s "network". None of Illinois Bell's arguments hold up to scrutiny.

Section 251(c)(2) interconnection is not restricted to interconnections on the incumbent LEC's existing network infrastructure. As recognized in *Talk America*, the FCC has long-held that incumbent LECs are "required to 'adapt their facilities to interconnection' and to 'accept the novel use of, and modification to, [their] network facilities'" to accommodate competing carriers' interconnection requests. *Talk America*, - - U.S. - -, 131 S.Ct. at 2261, *quoting In re Implementation of the Local Competition Provisions in the Telecommunications Act*, 11 F.C.C. R. 15499, 15605 ¶202 (Rel. Aug. 1, 1996) ("*Local Competition Order"*). Sprint's proposed language suggests it will request IP interconnection at some time during the Proposed Arbitrated Agreement's term.[45] Under the FCC's *Local Competition Order*, when Sprint makes a formal demand for IP interconnection, Illinois Bell is required to reasonably adapt its network to Sprint's "novel" form of interconnection if it currently cannot accommodate the request. The FCC explained:

> it is reasonable to interpret Congress's use of the term 'feasible' in sections 251(c)(2) and 251(c)(3) as encompassing more than what is merely 'practical' or similar to what is ordinarily done. That is, use of the term 'feasible' implies that interconnecting or providing access to a LEC network may be feasible at a particular point even if such interconnection or access requires a novel use of, or some modification to, incumbent LEC equipment. . . . If incumbent LECs were not required, at least to some extent, to adapt their facilities to interconnection for use by other carriers, the purposes of sections 251(c)(2) and 251(c)(3) would often be frustrated.

Local Competition Order, 11 FCC Rcd. at 15605 ¶202.

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[43] *Id*. at pg. 78.

[44] Illinois Bell does not address Section 251(a)'s requirement to directly or indirectly interconnect. Section 251(a) does not contain the "within the network" language about which Illinois Bell is concerned and, as affirmed in the *AT&T Ohio* decision, the Commission may impose interconnection obligations on Illinois Bell pursuant to Section 251(a), including in IP format.

[45] Illinois Bell admits that Sprint is not seeking immediate IP-to-IP interconnection but seeks such an interconnection sometime during the term of the Agreement. Albright Direct Testimony, 3:72-75.

Sprint's demand to exchange voice traffic via IP interconnection is indistinguishable from this FCC requirement requiring Illinois Bell to accommodate the Sprint's other interconnection requests. The record demonstrates that Illinois Bell owns and uses certain equipment at the Central Office (labeled ALU 7450 on Diagram CCA-1) and at the intermediate office (labeled ALU 7770 on Diagram CCA-1) and at the VHO (labeled ALU 7450 on Diagram CCA-1) for an IP network that is provided to Illinois Bell's U-verse customers. [46] Sprint's demand is to interconnect with this Illinois Bell equipment to exchange IP traffic on the IP network that is made available to Illinois Bell customers. Illinois Bell must "adapt their facilities to interconnection" for use by other carriers pursuant to Section 251.

Illinois Bell argued that the FCC, in Paragraph 209, "noted that section 251(c)(2) gives competing carriers the right to deliver traffic on an incumbent LEC's network at any technically feasible point 'on that network'."[47] The full quote from that Paragraph demonstrates that the choice of an interconnection point under Section 251(c)(2) is placed with the competitive carrier: "because competing carriers must usually compensate incumbent LECs for the additional costs incurred by providing interconnection, competitors have an incentive to make economically efficient decisions about where to interconnect." *Local Competition Order,* 11 FCC Rcd. at 15607 ¶209. Moreover, it is clear from the discussion that the FCC was examining examples of technically feasible interconnection methods at that time.[48] Nowhere in the *Local Competition Order* is there an FCC conclusion that the methods of Section 251(c)(2) interconnection are limited to the incumbent's current or existing network infrastructure or preferred method of interconnection.

The FCC's rules also provide for methods for obtaining interconnection pursuant to Section 251(c)(2) at 47 C.F.R. § 51.321, and state that the incumbent LEC "shall provide… any technically feasible method of obtaining interconnection … at a particular point upon a request by the

[46] Albright Direct Testimony, 7:209-8:211.

[47] Illinois Bell Opening Brief, pg. 78.

[48] The FCC finds that interconnection at the line-side of a local switch, the trunk-side of a local switch, the trunk interconnection points for a tandem switch and central office cross-connect point are all "technically feasible" in the next Paragraph. *Local Competition Order,* 11 FCC Rcd. at 15607 ¶209.

telecommunications carrier."[49] Section 51.321 does not state "at a particular point only on the incumbent LEC's existing network if the equipment is operated by the incumbent LEC," as Illinois Bell would have the Commission find. Even in the authority Illinois Bell relies on, the FCC could not be more clear on Illinois Bell's interconnection requirements: "the incumbent must accept the novel use of, and modification to, its network facilities to accommodate the interconnector. . ." *Local Competition Order*, 11 FCC Rcd. at 15605 ¶202. The Court subsequently affirmed the portion of the *Local Competition Order* requiring incumbent LECs to modify its network to accommodate an interconnection demand,[50] and the FCC promulgated consistent rules (*see* 47 C.F.R. § 51.5 ("The fact that an incumbent LEC must modify its facilities or equipment to respond to [an interconnection] request does not determine whether satisfying such request is technically feasible.")).

In Docket 00-0393, the Commission analyzed the unbundling requirements of SBC/Ameritech (a predecessor to Illinois Bell) relating to its "Project Pronto" DSL-enabled architecture, which delivered data services to its end user voice customers using a fiber/cooper overlay. SBC/Ameritech argued that it had "network capacity" issues which prevented unbundling of this architecture. The Commission rejected SBC/Ameritech's proposed "detailed review" of its available capacity, stating that SBC/Ameritech's use of fiber in the architecture meant there "are very few true technical capacity limitations on such systems."[51] The Commission further concluded that:

> The evidence in this proceeding demonstrates that SBC/Ameritech, as the incumbent monopolist, wants to protect and expand its own market share for advanced services, and the associated revenues, at the expense of its competitors. In order to protect its market share, SBC/Ameritech must maintain control over the network, including what components are unbundled and what functionality can and can't be deployed over the

[49] 47 C.F.R. §51.321(a) states "Except as provided in paragraph (e) of this section [relating to space floor constraints], an incumbent LEC shall provide, on terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the requirements of this part, any technically feasible method of obtaining interconnection or access to unbundled network elements at a particular point upon a request by a telecommunications carrier."

[50] *AT&T Corp v. Iowa Utilities Bd.*, 120 F.3d 753, 813 n. 33 (8th Cir. 1997) ("we endorse the Commission's statement that 'the obligations imposed by sections 251(c)(2) and 251(c)(3) include modifications to incumbent LEC facilities to the extent necessary to accommodate interconnection…") , *affirmed in part and reversed in part on other grounds in* 525 U.S. 366, 119 S.Ct. 721 (1999).

[51] *HFPL/Line Sharing Service*, 2002 WL 31096962, at *59-60.

> network. . . If SBC/Ameritech gives CLECs full access to new features and functions of the NGDLC platform, as required by the Commission and the FCC, SBC/Ameritech will not be able to control the types of services that are available on its network. SBC/Ameritech's proposed Special Request Process would significantly delay, and in some cases prevent, new and innovative broadband services from CLECs, because such offerings would erode SBC/Ameritech's market share of high-margin data services.[52]

Ultimately, the Commission in Docket No. 00-0393 stated that "[t]he evidence in this proceeding makes clear that SBC/Ameritech cannot articulate what 'technical or economic infeasibility' means, nor can it provide a set of specific criteria or factors it would apply to evaluate the feasibility of CLEC requests."[53] Instead, the Commission rejected SBC/Ameritech's "case-by-case approach that would give it broad authority to reject CLEC requests for new features and functions on the vague basis of 'technical or economic infeasibility'."[54]

Illinois Bell is taking a similar approach with respect to IP-to-IP interconnection as in Docket No. 00-0393. Illinois Bell's rejection of Sprint proposed language amounts to a "case-by-case approach" and a requirement that competitive LECs demonstrate technical feasibility on the incumbent LEC's network. Such an approach would turn the incumbent's burden of showing technical infeasibility burden on its head and is a clear attempt by Illinois Bell to "delay, and in some cases prevent, new and innovative broadband services from CLECs."

c. The Terminology Of Section 251 Does Not Exclude IP-to-IP Interconnection

Illinois Bell further argued that the terminology used in Section 251 requires a finding that IP-to-IP interconnection is excluded from the statute.[55] Illinois Bell's central support for its conclusion rests on its incorrect belief that the exchange of voice traffic in IP format converts the voice traffic into "information services." [56] As a consequence of its incorrect conclusion, Illinois Bell concludes that: (1) Sprint's demand for IP-to-IP interconnection is not subject to Section 251(c) because neither Sprint nor

[52] Id. at *61 (internal citations omitted).

[53] *Id*. at *64.

[54] *Id*.

[55] Illinois Bell Opening Brief, pg. 89.

[56] *Id*. at pgs. 89-90.

Illinois Bell would not be acting as a "telecommunications carrier" (because the definition of "telecommunications carrier" excludes the exchange of information services); (2) Sprint's demand for IP-to-IP interconnection is not subject to Section 251(c) because interconnections under that section are limited to "telephone exchange service and exchange access"; and (3) Sprint's demand for IP-to-IP interconnection is not subject to Section 251(c) because Illinois Bell would no longer be an incumbent LEC and would instead be a "broadband information services provider" if it exchanged voice IP traffic. Illinois Bell is mistaken as to each of these points.[57]

First, the exchange of voice IP traffic between Sprint and Illinois Bell would not be an "information service" excluded from the requirements of Section 251(c). Illinois Bell ignores the FCC's long-held distinction between unregulated data or mixed data transmitted over the internet and "phone-to-phone" IP telephony services. For example, in 1998, the Stevens Report distinguished "phone-to-phone" IP telephony services from other forms of IP transmission based on the following four criteria:

> (1) it holds itself out as providing voice telephony or facsimile transmission service; (2) it does not require the customer to use CPE different from that CPE necessary to place an ordinary touch-tone call (or facsimile transmission) over the public switched telephone network; (3) it allows the customer to call telephone numbers assigned in accordance with the North American Numbering Plan, and associated international agreements; and (4) it transmits customer information without net change in form or content.[58]

With respect to phone-to-phone IP telephony services, "[t]he Commission … stated that '[t]he protocol processing that takes place incident to phone-to-phone IP telephony does not affect the service's classification, under the Commission's current approach, because it results in no net protocol conversion to the end user'."[59] The proposed exchange of voice traffic between Sprint and Illinois Bell satisfies each of the traditional "phone-to-phone IP telephony" categories.

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[57] *Id*. at pgs. 89-91.

[58] *In re IP-Enable Services, Notice of Proposed Rulemaking*, 19 FCC Rcd. 4863, 4882 ¶ 29 (rel. Mar. 10, 2004); *quoting Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report to Congress, 13 FCC Rcd 11501 (1998) ("Stevens Report"), at 11543-44, ¶ 88.

[59] *Id*., *quoting* Stevens Report at 11527, ¶ 52.

Illinois Bell's presumption that voice traffic would be converted to unregulated "information services" if exchanged in an IP-to-IP interconnection is unfounded. The FCC has rejected Illinois Bell's approach. In *In re Petition for Declaratory Ruling That AT&T's Phone-to-Phone IP Telephony Servs. Are Exempt from Access Charges*, 19 FCC Rcd. 7457, 7459 (Apr. 21, 2004) ("*AT&T IP Telephony Order*"), the Commission rejected AT&T Long Distance's argument that its phone-to-phone IP telephone services are "information services" exempt from access charges. In *AT&T IP Telephony Order*, AT&T Long Distance argued that a call initiated in the same manner as a traditional interexchange call, that AT&T received and then converted into IP format to transport over is internet backbone, which was then converted back for delivery through LECs was an "information service" exempt from access charges.[60] The FCC disagreed:

> We are not persuaded by arguments that AT&T's specific service is an information service due to its future potential to provide enhanced functionality and net protocol conversion. . . This order, however, address only AT&T specific service, and that service does not involve a net protocol conversion and does not meet the statutory definition of an information service.[61]

Like in *AT&T IP Telephony Order*, the proposed IP-to-IP interexchange of voice traffic between Sprint and Illinois Bell involves no net protocol conversion and does not satisfy the statutory definition of "information services." A net-protocol conversion occurs when "an end-user send[s] information into a network in one protocol and [has] it exit the network in a different protocol."[62] The proposed IP-to-IP interconnection involves no protocol change because the end user is not initiating any change in the format of the call, and because the format of the call does not change (the exchange is IP to IP with no format change). In fact, Illinois Bell admits that an IP-to-IP interconnection would not result in a net protocol conversion.[63] Further, "information service" is defined as "the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available

[60] *AT&T IP Telephony Order*, at ¶¶1, 13.

[61] *AT&T IP Telephony Order*, at ¶ 13.

[62] *In re Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, 11 F.C.C.R. 21905, ¶ 104 (1996).

[63] Tr. 566:10-15; 557:12-558: 12 (Albright).

information via telecommunications."[64] An exchange of voice traffic offers none of these capabilities even if the exchange occurs in IP format. Illinois Bell therefore is incorrect in its assertion that the exchange of voice traffic in IP format converts the traffic into "information services."

Second, Illinois Bell's remaining arguments on this point are easily dispatched. Illinois Bell attempts to layer definitions from the Act upon each other to argue that an IP-to-IP interconnection with Sprint will result in Illinois Bell ceasing to be an incumbent "local exchange carrier" or a "telecommunications carrier" under the Act and, because Section 251(a) is limited to "telecommunications carriers" and Sections 251(b) & (c) are limited to "local exchange carriers", Illinois Bell argues that none of these provision would apply.[65] Illinois Bell's conclusions are again mistaken.

Illinois Bell will remain an incumbent "local exchange carrier" and "telecommunications carrier" for the foreseeable future regardless of the existence of an IP-to-IP interconnection exchanging voice traffic with Sprint.[66] The Act defines "local exchange carrier" as "any person that is engage in the provision of telephone exchange service or exchange access. . . [or] to the extent that the Commission finds that such service should be included in the definition of such term."[67] Illinois Bell will continue to satisfy the definition of a provider of "telephone exchange services" because the nature of voice services for end users would be identical whether exchanged on an IP-to-IP interconnection or on a TDM-to-TDM interconnection; voice calls are routed through a system of softswitches and mulitplexers on an IP network comparable to the switches and multiplexers used on a TDM network; and the voice service allows an end user to "originate and terminate" local telephone service. Likewise, "exchange access" service is not limited to the "offering" of access service. "Exchange access" is found were facilities are

[64] 47 U.S.C. §153(20).

[65] Illinois Bell Opening Brief, pgs. 89-90.

[66] Illinois Bell incorrectly argues that "For all relevant purposes, the term 'telecommunications carrier' is synonymous with 'common carrier'." Yet the case law it cites to for this proposition arrives at the opposite conclusion. *See Virgin Islands Tel. Corp. v. FCC*, 198 F.3d 921, 926-27 (D.C. Cir. 1999) ("the two terms, "telecommunications carrier" and "common carrier" are not necessarily identical, and, as intervenor AT&T Corporation urges, we need not decide today what differences, if any, exist between the two.").

[67] 47 U.S.C. §153(32).

used "for the purpose of origination or termination of telephone toll services."[68] Illinois Bell has not indicated that its voice telephone toll services will be discontinued with a transition to IP interconnections. Consequently, Illinois Bell will continue to be a "local exchange carrier" subject to Section 251 even if it exchanges voice traffic with Sprint via an IP interconnection. Further, Illinois Bell will continue to be a "telecommunications carrier" because the Act specifically states that telecommunications is found "regardless of the facilities used", and because Illinois Bell will continue to provide its customers with local voice telephone services.[69] Illinois Bell will not be transformed into an "IP-based broadband information service provider" – free of Section 251 – as a result of an exchange of voice calls with Sprint through an IP-to-IP interconnection.

Illinois Bell's "all-or-nothing" approach to Section 251 on creative reliance of the Act's statutory language for "telecommunications carrier" has been specifically rejected by the FCC.[70] In *WorldCom, Inc. v. FCC*, 246 F.3d 690 (D.C. Cir. 2001), the Court affirmed the FCC's finding that Section 251 does not apply exclusively to "telephone exchange" services and "exchange access" services in examining the definition of "telecommunications carrier".[71] In *Worldcom*, the Court affirmed application of Section 251 to an incumbent LEC's packet-switching and digital subscriber line technologies ("DSL") service where Qwest (the incumbent LEC) argued that, because "telecommunications carrier" is included in the definition "only to the extent" the carrier engaged in telecommunications services, and its DSL service was not "telephone exchange service" or "exchange access service, the services are not subject to Section 251(c) interconnection requirements.[72] In contrast, the FCC argued that "DSL-based advanced services

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[68] 47 U.S.C. §153(20).

[69] 47 U.S.C. §§153(51), (53).

[70] Illinois Bell Opening Brief, pg. 89.

[71] The *Worldcom* Court also remanded the question of the classification of DSL-based services, which the FCC addressed in *In re Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service Lifeline and Link Up Universal Service Contribution Methodology numbering Resource Optimization Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 Developing a Unified Intercarrier Compensation Regime Interccarrier Compensation for IS-Bound Traffic IP-Enable Services*, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, 24 F.C.C.R. 6475 (re. Nov. 5, 2008)

[72] *WorldCom*, 246 F.3d at 693.

qualify as 'telecommunications services' as to which § 251(c) imposes many of its duties on incumbent LECs, so that it may regulate a carrier engaged in providing such services so long as the carrier [also] qualifies as a LEC by providing either 'telephone exchange service' or 'exchange access' and meets the definition of incumbent under § 251(h)."[73] The Court accepted the FCC's expansive application of Section 251, permitting application of Section 251(c) if the carrier continued to meet the criteria of Section 251(h) (defining incumbent LECs) and still provided "exchange access" or "telephone exchange service" looking at the carrier's other services aside from the DSL service.[74] Therefore, Illinois Bell will continue to be a "telecommunications carrier" even it provides a voice IP-to-IP interconnection with Sprint because Illinois Bell will continue to provide the other services that it continues to provide today, including local voice services in TDM format.

3. Other Public Service Commissions Have Affirmed That IP-To-IP Interconnection Is Within The Scope Of Section 251.

As correctly pointed out by Sprint, other state public service commissions have affirmed that IP-to-IP interconnection is within the scope of Section 251. Illinois Bell incorrectly states in its Reply Brief that "[n]either of the commission decisions to which Sprint refers has decided that IP interconnection is within the scope of section 251."[75] Closer examination of these decisions reveals that Illinois Bell is again mistaken.

With respect to *In re Liberty Cablevision of Puerto Rico, LLC*, Dkt. No. JRT-2012-AR-0001, Report and Order (Sept. 25, 2012) (Sprint Exh. JRB-1.3), Illinois Bell states that "[t]he Puerto Rico commission's discussion of IP-to-IP interconnection … does not mention section 251, let alone hold that it encompass IP interconnection. Furthermore, no question was present in the Puerto Rico arbitration that

[73] *Id*. at 695.

[74] *Id*.

[75] Illinois Bell Reply Brief, pg. 46.

is present here."[76] This Illinois Bell statement is false. In *Liberty Cablevision*, the Puerto Rico Telecommunications Regulatory Board ("TRB")

held that the interconnecting carrier's [Libery Cablevision]"network runs in Internet Protocol ('IP')."[77] The incumbent LEC objected to Liberty Cablevision's proposed language on IP-to-IP interconnection because "under Liberty's proposal, only Liberty can make a request for IP-to-IP interconnection and only Liberty can pursue other remedies should negotiations fail."[78] The TRB stated that it "is guided by its duties to promote (1) competition, (2) investment in telecommunications infrastructure, and (3) interconnection between telecommunications companies under [local law], as well as the FCC's extensive discussion of its intention to 'promote innovation by eliminating barrier to . . . the all-IP broadband networks of the future"[,] . . . Liberty's request [for IP-to-IP interconnection] must be adopted."[79]

Illinois Bell is similarly mistaken in its reading of the Ohio Public Utilities Commission decision in *In re Matter of the Commission's Review of Chapter 4901:1-7, of the Ohio Administrative Code, Local Exchange Carrier-to-Carrier Rules*, Ohio Commission Case No. 12-922-TP-ORD, Finding and Order (Oct. 31, 2012) (Sprint's Exhibit JRB-1.4). Illinois Bell argued that "[t]he Ohio order . .. does *not* hold that section 251(c)(2) requires IP-to-IP interconnection or even (at least in the pages to which Sprint cites) mention section 251."[80]

On page 5 of the Order,[81] the Ohio Commission states that tw telecom of ohio llc "points to Section 4927.04, revised Code, as requiring the Commission to act consistent with the federal interconnection requirements of 47 U.S.C. § 251." The Ohio Commission then concludes that:

[76] *Id*. at pgs. 46-47.

[77] *Id*. at pg. 12.

[78] *Id*.. at pg. 13.

[79] *Id*. at pg. 15.

[80] *Id.* at pg. 47 (emphasis in original.)

[81] The page cited by Sprint in its Opening Brief.

> We agree with TWTC that federal law is technology neutral and therefore will adopt Staff's language as proposed in subparagraphs (A)(1) through (A)(3). The Commission finds nothing in federal law that prohibits the Staff-proposed language and the commenters have pointed to no specific language to support their position. Additionally, the FCC reiterated in *Connect America Fund, et al*., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Red 17663, 18014 (2011) (commonly referred to as the *Transformation Order*), rel. November 18, 2011, at paragraphs 1011 and 1035, that '[T]he duty to negotiate in good faith has been a longstanding element of interconnection requirements under the Communications Act and *does not depend upon the network technology underlying the interconnection* whether TDM, IP, or otherwise. Moreover, we expect such good faith negotiations to result in interconnection arrangements between IP networks for the purpose of exchanging voice traffic (Emphasis added).' . . . We note that adopting the rules as proposed provides us with more flexibility to accommodate specific IP interconnection standards issued by the FCC should we maintain such a role in the future. We also find that the rule, as proposed, will afford telephone companies greater flexibility to negotiate specific terms, conditions, and prices for such interconnection. . . [82]

Despite the clarity of the Ohio Commission's finding that Section 251 interconnection requirements are technology neutral and encompass IP interconnections, Illinois Bell complains that the proposed rule for interconnection does not expressly reference IP-to-IP interconnection.[83] In light of the Ohio Commission's conclusion that Section 251 interconnection is technology neutral, it is no wonder that the Ohio Commission did not specifically reference one type of interconnection connection format in the proposed rule. However, the Ohio Commission itself answers Illinois Bell's concerns when AT&T's petition for rehearing to the Ohio Commission was rejected on December 12, 2012.[84] There, the Ohio Commission stated that

> The adopted language is technology neutral, consistent with the FCC's statements on this point, and, contrary to rehearing applicants' arguments, does not single out or attempt to apply Section 251 interconnection obligations to IP-to-IP interconnection for traffic not subject to Section 251 (i.e., that is our rules only address telecommunications traffic and applies to no other form of traffic). By way of example only, since IP interconnection is the current focus of FCC investigation, the Commission did acknowledge in the finding and order that inclusion of this language was intended to provide the Commission flexibility to accommodate IP interconnection standards should we maintain such a role

[82] *In re Matter of the Commission's Review of Chapter 4901:1-7, of the Ohio Administrative Code, Local Exchange Carrier-to-Carrier Rules*, Ohio Commission Case No. 12-922-TP-ORD, Finding and Order (Oct. 31, 2012) (Sprint's Exhibit JRB-1.4), pg. 5

[83] Illinois Bell Reply Brief, pg. 48.

[84] *In re Matter of the Commission's Review of Chapter 4901:1-7, of the Ohio Administrative Code, Local Exchange Carrier-to-Carrier Rules*, Ohio Commission Case No. 12-922-TP-ORD, Finding and Order, 2012 WL 6641410 (Dec. 12, 2012)

> in the future. However, the language, as modified in the adopted rule, applies to any technology that the FCC determines is subject to Section 251 interconnection requirements and does not focus on one technology alone.[85]

The Ohio Commission's findings plainly encompass IP-to-IP interconnection and affirm the FCC's current findings that Section 251 interconnection required regardless of the type of technology used for interconnection.

B. The Commission Should Not Delay Clarifying IP Interconnection Requirements For Illinois Carriers.

The Commission should not delay providing Illinois carriers with the clarification that they have a right to demand IP-to-IP interconnection pursuant to Section 251(c)(2) of the Act. Illinois Bell adopts Staff's position that the Commission should delay resolving the issue of whether the Commission has jurisdiction to arbitrate IP-to-IP interconnection agreements.[86] Staff argues that Section 251 and 83 Ill. Admin. Code § 790 require interconnection at technically feasible points and at least one interconnection within a local access transport area.[87] Staff then concludes that, because the Sprint has not made its formal demand for an IP-to-IP interconnection including the exact proposed points of interconnection and a plan for interconnection, Staff is unable to evaluate whether a proposed IP-to-IP interconnection satisfies FCC and Commission requirements.[88]

An arbitrated agreement approved by the Commission is not required to include all possible terms and conditions related to all potential services available under the proposed Agreement. Sprint's proposed language for IP interconnection states that the Agreement should permit requests for interconnections in IP format at some time during the term of the Agreement. In other words, Sprint's proposed language recognizes the Commission's authority to arbitrate IP-to-IP interconnection disputes and Sprint's ability to demand IP-to-IP interconnection under the proposed Agreement. Sprint's proposal

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[85] *Id*. (emphasis added).

[86] Illinois Bell Opening Brief, pg. 85; Staff of the Illinois Commerce Commission's Initial Brief (filed Mar. 22, 2013) ("Staff Opening Brief"), pg. 31, 35.

[87] Staff Opening Brief, pg. 31-32.

[88] *Id*.

would allow it to make a formal demand without re-arguing the issues which were fully explored and raised in this arbitration about the Commission's authority over IP-to-IP interconnection. After Sprint makes a formal demand for IP interconnection, if the parties are unable to agree, Sprint would then present its formal demand for arbitration and present the Commission and Staff with the specifics of its IP interconnection plan. Illinois Bell and Sprint's disagreement with respect to IP Interconnection concerns whether the Commission has any authority to arbitrate IP-to-IP interconnection. Intervenors urge the Commission resolve this question to avoid re-litigating this issue with each arbitration.

Staff further argues that Sprint is requesting that the Commission make a "technical feasibility" determination with respect to IP-to-IP interconnection.[89] Again, Intervenors respectfully disagree. Sprint's proposed language for IP interconnection is limited to the Commission's authority. The determination of technical feasibility can only be made after Sprint makes a formal demand for IP interconnection and presents its interconnection plan. However, under Illinois Bell's proposed language, Sprint will be limited to TDM traffic interconnection only, and would not be able to make formal demand for IP interconnection under the Proposed Arbitrated Agreement.

Staff further urges delay in declaring the Commission's authority to arbitrate IP-to-IP interconnection because the FCC has not yet interpreted whether IP-to-IP interconnection is subject to Section 251(c). Intervenors respectfully disagree for the reasons detailed above. In addition, Intervenors note that the FCC has advised state public utilities commission against delaying determinations where the FCC has not squarely address a particular issue. For example, in *In re Petition of UTEX Communications Corporation*, 24 F.C.C.R. 12573, WC Docket No. 09-0134 (rel. Oct. 9, 2009), the FCC stated that: "we make clear that the Act requires timely arbitration, even where there is uncertainty in the law because the Commission has not address a particular question. . . We emphasize that the [state public utilities commission] should not wait for Commission action to move forward. Rather, the [state public utilities

[89] *Id*. at pg. 33.

commission] must proceed to arbitrate this interconnection agreement in a timely manner, relying on existing law."

In *UTEX*, the Texas Public Utilities Commission was faced with an arbitrated agreement with Southwestern Bell Telephone Company d/b/a SBC Texas (now AT&T Texas) where the petitioner represented all parts of the proposed agreement were related to VoIP "because the company's principal business plan was to support IP-enable services, including VoIP.[90] The Texas state Public Utilities Commission abated the proceeding pending a potential decision by the FCC as to the appropriate regulatory classification of VoIP services.[91] The FCC ultimately denied UTEX's petition to the FCC claiming that the FCC preempted the state public utilities commission as to VoIP, and stated that "in light of the important role for the states established under section 252 . . . we find it most consistent with section 252 of the Act to allow the [state public utilities commission] to fulfill its responsibilities under the Act."[92] Intervenors similarly urge the Commission here to resolve the Commission's authority over IP-to-IP interconnection to provide clarity for all Illinois carriers.

Lastly, Staff urges the Commission to adopt proposed language that preserves Sprint's right to request IP-to-IP interconnection "without prejudging the merits of such proposal."[93] The issue of whether the Commission has authority to arbitrate IP-to-IP interconnection has been fully briefed and debated among the parties in this arbitration. Each side has presented their authority for this question. Intervenors therefore urge the Commission to avoid imposing similar arbitration costs on each Illinois carrier seeking to establish an IP interconnection with an incumbent LEC, and provide a clear statement of incumbent LECs' responsibility to establish IP interconnection pursuant to Section 251(c). The Commission should adopt Sprint's proposed language for IP interconnection, and affirm its jurisdiction to arbitrate IP-to-IP interconnection agreements.

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[90] *UTEX Communications, at* ¶4.

[91] *Id*. ¶5.

[92] *Id*. ¶9.

[93] Staff Opening Brief, pg. 36.

C. There Are Sound Policy Reasons For The Commission To Exercise Its Authority Over IP Interconnection.

Aside from the FCC's clear statements that Section 251(c) applies regardless of technology, there are sound policy reasons for clarifying Illinois carriers' right to demand IP interconnection pursuant to Section 251(c) in this arbitration.

In the *Connect America* docket, the FCC clearly stated that it has set "an express goal of facilitating industry progression to all-IP networks, and ensuring the transition to IP-to-IP interconnection is an important part of achieving that goal."[94] To achieve that goal, the FCC stated that it "expect[s] all carriers to negotiate in good faith in response to requests for IP-to-IP interconnection for the exchange of voice traffic," and that it "expect[s] such good faith negotiations to result in interconnection arrangements between IP networks for the purpose of exchanging voice traffic."[95]

Adopting Illinois Bell's stance, and delaying a clear statement on carriers' rights to demand IP interconnection pursuant to Section 251(c), will frustrate the FCC's expressed goals in at least two ways. First, delaying clarification would incentive Illinois Bell to delay widespread implementation of IP interconnection with competing carriers while at the same time permit Illinois Bell to deploy its resources to developing its U-verse IP network (with which Illinois Bell maintains no competing carrier may interconnection).[96] This result would be contrary to the pro-competitive stance of the Act where "Congress sought to encourage competition by mandating that carriers interconnect with one another and by requiring incumbent LECs to share elements of their existing infrastructure with competing LECs."[97] Further, as the public utilities commission stated in *Liberty Cablevision*, the Commission should be

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[94] *USF/ICC Transformation* Order, ¶1335.

[95] *Id.* ¶1011.

[96] Mr. Albright testifies that at least one of the affiliates of AT&T has the goal of making wireline voice over IP available to 75% of customer locations in the next two and a half years through Illinois Bell's U-verse service. Tr. 512:3-8, 514:9-16 (Albright). Presumably some of this equipment will be owned by Illinois Bell but operated by another AT&T affiliate for the benefit of Illinois Bell's U-verse customers in a similar configuration to the current system. Tr. 515:14-16 (Albright).

[97] *Liberty Cablevision*, Sprint Exh. JRB-1.3, pg. 10 (internal quotation and citation omitted); *see also AT&T Ohio*, 711 F.3d 637, 642 (6th Cir. 2013) ("Congress passed the Act 'in order to end local telecommunications monopolies and engender competition in local telecommunications markets").

"guided by its duties to promote (1) competition, (2) investment in telecommunications infrastructure, and (3) interconnection between telecommunications companies under [local law], as well as the FCC's extensive discussion of its intention to promote innovation by eliminating barrier to the all-IP broadband networks of the future."[98] Delaying a decision a clarification to incumbent LECs that Section 251 applies to IP-to-IP interconnection will prevent the development of IP networks by requiring the competitors of incumbent LECs to maintain an outdated form of voice technology (TDM), even will the incumbent invests in its IP infrastructure.

Second, Illinois Bell should not be permitted to unilaterally decide that the burdens imposed on it as an incumbent carrier pursuant to 251 do not apply. As the Court said in *AT&T Corp. v. Iowa Util. Bd.*, 525 U.S. 366, 371, 119 S.Ct. 721 (1999): "[f]oremost among these duties is the [incumbent carrier's] obligation under 47 U.S.C. § 251(c) to share its network with competitors." Illinois Bell's stance disregards the burden placed on it as an incumbent LEC, based solely on its hypothesis that on a change in technology immediately renders it "broadband information services provider" exempt from Section 251. Illinois Bell takes this position despite clear language from the FCC that interconnection obligations under Section 251 are technology neutral. If incumbent LECs are able to disregard the pro-competitive protections of the Act at-will based on such speculative arguments, then the Act affords competitive carriers little or no protections at all, and the very purpose of the Act is undermined.

Lastly, a decision by the Commission affirming the right of carriers to demand IP interconnection will be the right result for Illinois consumers. A Commission decision clarifying that competitive carriers have a right to demand IP-interconnection pursuant to Section 251(c) will promote competition among incumbent and competitive carriers, and will allows carriers to use the most efficient interconnection technology, ultimately reducing the costs for all voice service end users in Illinois. Consequently, Intervenors encourage the Commission to affirm its authority to arbitrate IP-to-IP interconnection

[98] *Liberty Cablevision*, Sprint Exh. JRB-1.3, pg. 10 (internal quotation and citation omitted), at pg. 15.

agreements, and adopt Sprint's language recognizing the Commission's jurisdiction with respect to IP interconnection.

CONCLUSION

For all the reasons stated in these comments, the Commission should issue an Order affirming the applicability of Sections 251 and 252 of the Act for issues relating to interconnecting Internet Protocol infrastructures, and modify the Proposed Arbitrated Agreement accordingly.

Submitted: July 22, 2013

Respectfully submitted,

LEVEL 3 COMMUNICATIONS, LLC
PEERLESS NETWORK OF ILLINOIS, LLC
TW TELECOM OF ILLINOIS LLC

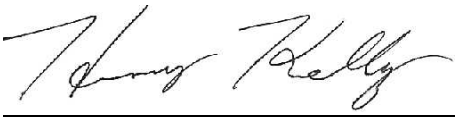

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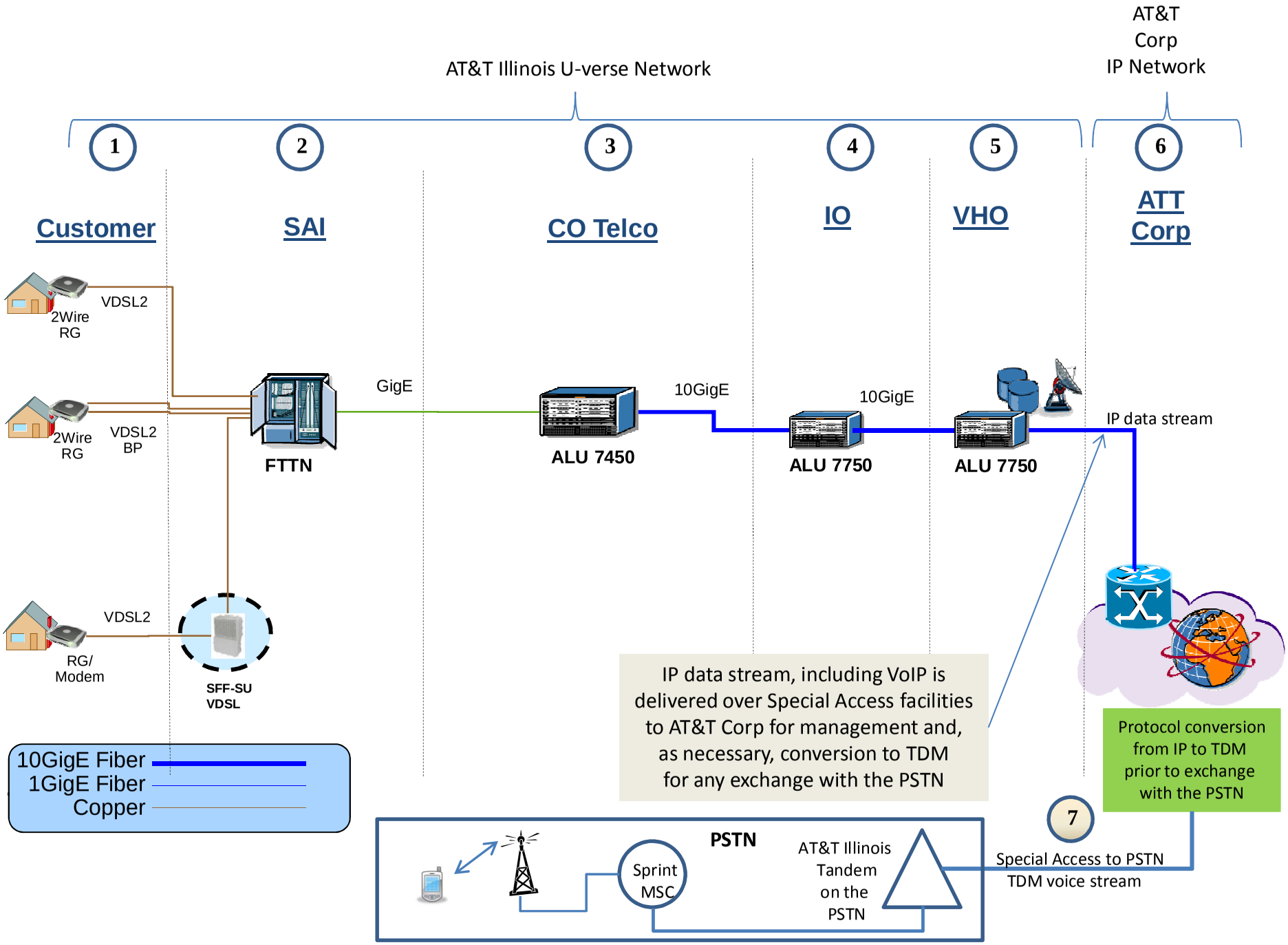
EXHIBIT
1

ICC Docket No. 12-0550
AT&T Illinois Exhibit 2.1
Carl C. Albright, Jr. Rebuttal Testimony

Schedule CCA-9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PSTN
Sprint MSC
AT&T Illinois Tandem on the PSTN
Special Access to PSTN
TDM voice stream

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS BELL TELEPHONE COMPANY D/B/A AT&T ILLINOIS D/B/A AT&T WHOLESALE and SPRINTCOM, INC. WIRELESSCO. L.P., NPCR, INC. D/B/A NEXTEL PARTNERS AND NEXTEL WEST CORP.	)	Docket No. 13-0443
Joint Petition Regarding Approval of Interconnection Agreement pursuant to 47 U.S.C. § 252	)	

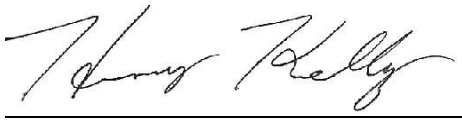
NOTICE OF FILING

Please take notice that on July 22, 2013, I caused to be filed via the Illinois Commerce Commission e-Docket, **Level 3 Communications, LLC, Peerless Network of Illinois, LLC, and tw telecom of illinois llc's Petition To Intervene and Motion For Leave To File Comments *Instanter***. A copy of the foregoing document is hereby served upon you.

Henry T. Kelly, attorney for
Level 3 Communications, LLC, Peerless Network of Illinois, LLC, and tw telecom of illinois llc

CERTIFICATE OF SERVICE

I, Henry T. Kelly, an attorney, on oath state that I served a copy of **Level 3 Communications, LLC, Peerless Network of Illinois, LLC, and tw telecom of illinois llc's Petition To Intervene and Motion For Leave To File Comments *Instanter***. on the service list maintained on the Illinois Commerce Commission's eDocket system for the instant docket via electronic delivery on July 22, 2013.



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